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August 9, 2023

Via ECF

Honorable Taryn A. Merkl
United States Magistrate Judge for the Eastern
District of New York
225 Cadman Plaza E Rm 317N
Brooklyn, NY 11201

Re: Case 1:21-cv-01540 *Wilmington Trust, N.A. v. Segal*.

Dear Judge Merkl,

In compliance with the Court's directive on July 5, 2023, counsel for Wilmington Trust, N.A. ("Securities Intermediary") hereby files this status report advising the Court as to the status of the case and proposed next steps. As the Court is aware, John Hancock issued a partial payment on the death claim for the policies at issue, but has not remitted the full death benefits given its stated concern relating to the birthdate listed on the policy applications. As of today, \$2,943,168, plus interest, is still owed on the two policies at issue.

As discussed previously, Wilmington Trust took the deposition of Herman Segal on June 12, 2023. Notably, Mr. Segal did not bring any of the documents requested, claiming he had none. Mr. Segal also refused to provide information as to the individual who Mr. Segal claims could be in possession of some of the documents requested, assuming said individual has not destroyed the documents. As also mentioned during the status conference, Mr. Segal refused to answer any questions relating to his conversations with individuals at John Hancock.

During the status conference, Your Honor directed the parties to meet and confer regarding the parties' discovery disputes, which the parties did by telephone immediately after the status conference concluded. During the meet and confer, Mr. Segal insisted that he was truthful during his deposition and that he has no responsive documents to produce.¹

In an effort to expedite the process, Wilmington Trust has conducted additional searches and has been able to locate the following ancient documents under the Federal Rules of Evidence,

¹ However, Mr. Segal stated during the status conference that there are certain documents he does not intend to produce because of a "Fifth Amendment issue" claiming that there are "legal and practical justification[s] why those documents may not be available for production." Jun. 12, 2023 Hr'g Tr., attached as **Exhibit 1**, at 11:5-10; 13:20-24 ("unfortunately, we're talking here about potential criminal possibilities" to Mr. Segal).

evidencing Lilly Segal's birthday as [REDACTED] 1926 (consistent with the date stated on the application):

1. Petition for Naturalization, dated Feb. 5, 1948 (signed by Lenka Segal)
2. United States Naturalization Index Card, dated Feb. 23, 1954 (signed by Lenka Segal)
3. Certificate of Naturalization (1954)
4. United States Department of Justice Marine Passenger Manifest, dated Jan. 22, 1948 (indicating Lilly Segal was 21 years old at the time)
5. Registration of German Persecutees (from 1948)
6. Certificate of Marriage (from 1953)

All of these documents clearly demonstrate that Lilly Segal was born on the date listed in the Policy applications.

In addition, Wilmington Trust has also served a Subpoena for documents on John Hancock in order to gather the documentation in its possession and the communications with Herman Segal (about which Mr. Segal refused to comment during his deposition). Although the return date on the subpoena was August 7, 2023, John Hancock, through counsel, requested a two-week extension, which Wilmington Trust agreed to.

As soon as Wilmington Trust receives the responsive documents from John Hancock, Wilmington Trust will again confer with John Hancock to try to persuade John Hancock to resolve this matter considering the new evidence confirming the accuracy the date of birth for Ms. Segal disclosed in the policy applications. To the extent John Hancock refuses payment despite this evidence, Wilmington Trust will file a motion for summary judgment with the Court regarding the issue of Lilly Segal's age and, if necessary, join John Hancock in the action.

Importantly, Wilmington Trust's intent continues to be to bring this matter to closure as expeditiously as possible. Thank you.

Sincerely,

HOLLAND & KNIGHT LLP


Jesus E. Cuza